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Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA AT FAIRBANKS**

ROBERT PROBERT and LORETTA E.

PROBERT, and others similarly situated,

Plaintiffs,

vs.

**FAMILY CENTERED SERVICES OF
ALASKA, INC. and DOES I to X**, (Managerial
Employees Jointly Liable)

Defendants.

Case No. 4:07-cv-00030-RRB

MOTION TO STRIKE ORDER AT DOCKET 167

On January 19, 2011, Defendants filed a Motion for Leave to File Opposition in Plaintiffs' Motion to Vacate and Reconsider Order at Docket 164. The Court issued an Order thereon on January 24, 2011 at Docket 169.

Local Civil Rule 7(f) provides for twenty-one (21) days to oppose 12(b)(6) Motions.

Probert, et. al. v. FCSA, et. al.
Motion to Strike Order at Docket 167
Case No. 4:07-cv-00030-RRB
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The Court's Order seems to be in violation of this Rule. Plaintiff moves the Court to vacate its Order at Docket 169.

This Motion was drafted on Sunday the 30th. Counsel now has in his possession the Court's Order at Docket 173, Text Order, which said the Court has construed Plaintiffs' Motion to Vacate at Docket 165 as a Motion for Reconsideration. Accordingly, Defendants' Opposition at Docket 170 has been filed pursuant to Local Rule 59.1(d).

So the Court indicated that its Order at 167 was pursuant to Local Rule 59.1(d) although it never said so at Docket 169.

Plaintiffs' Counsel has no idea if the Court is merely pondering a Motion to Vacate because the case is Stayed or if the Court is pondering considering and/or reconsidering the initial Motion of November 29, 2010 at Docket 162, Motion to Dismiss Deborah Coxon.

If the Court is pondering that issue, Plaintiff would like to have adequate time to file Opposition to that Motion so the Court can be fully appraised in the premises.

Should Plaintiffs' Counsel put aside the other pressing work on his desk to work on such an Opposition? At this point, if he does, the Court may only consider the Stay issue and the work would be for naught. Or if he does, without knowing the Court's timing and intention, he may put considerable time and effort into such pleading only to find that the Court issues an Order the hour before he files an Opposition.

What is the Court's intention?

RESPECTFULLY SUBMITTED this 31st day of January, 2011, Fairbanks,
Alaska.

LAW OFFICES OF KENNETH L. COVELL
Attorney for the Plaintiffs

By: /s/ Kenneth L. Covell
KENNETH L. COVELL
ABA Bar No. 8611103

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been
Served electronically, via ECF, to the following party(s):

John Foster Wallace

Richard D. Monkman

Dated: 01/31/2011

By: /s/ Camille De Santiago

Camille De Santiago for Kenneth L. Covell